THE HON'BLE SRI JUSTICE C.V. RAMULU

Tuesday, 11th day of April,2007

W.P.No.9810 of 1998

Between:-

A. Govinda Rao … Petitioner

and

Mineral Exploration Corporation Ltd.,
represented by its Chairman-cum-
Managing Director, Seminary Hills,
Nagpur-440 006, Maharashtra State
and others … Respondents

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ORAL ORDER:

This Writ Petition is filed seeking a Mandamus declaring the action of the respondents in not implementing the V Pay Revision Committee recommendations and Proceedings No.E/Claims/GGLIS/Vol-12/97/3318 dated 21-1-1998 of the 1st respondent as arbitrary and illegal and consequently to direct the respondents to implement V Pay Revision Committee recommendations as directed by the Apex Court in the Judgment dated 3-5-1990 in C.M.P.No.10864 of 1989 in Writ Petition No.13644 of 1984 and batch and Office Memorandums dated 24-10-1997 and 5-12-1997 of respondents 1 and 2 and grant all consequential benefits to the petitioner.

It appears, petitioner was an employee of the 1st respondent-organization and retired under the Voluntary Retirement Scheme as Deputy Chief Mining Engineer with effect from 31-7-1997. He was a CDA pattern employee for the purpose of pay scales. While that being so, the V Pay Commission recommendations were not implemented in the respondent-organization and the matter was referred to High Power Pay Committee. The said committee recommended that all the CDA pattern Officers can be converted into IDA pattern Officers and their pay shall be revised on par with IDA pattern employees in parity with V Pay Commission recommendations and on such report, the

respondent-organization has implemented the revised pay scales with effect from 1-1-1997 notionally and effectively from 1-4-2005. The case of the petitioner is that the revised pay scales, though in IDA pattern as per the recommendations of the one-man commission were implemented from 1-1-1997, his pay has not been fixed as per the said recommendations with effect from 1-1-1997 notionally and he was not paid retiral benefits there against. Therefore, he made a representation and the same was rejected saying that he is not entitled for any benefits under the revised pay scales, which were implemented with effect from 1-4-2005 effectively and with retrospective effect from 1-1-1997 notionally, since he was not in service as on 1-4-2005. According to the petitioner, the approach made by the respondents is arbitrary and illegal.

A detailed counter affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is asserted that the V Pay Commission recommendations revising the pay scales of the Central Government employees could not be implemented by the respondent-Corporation due to adverse financial constraints. The V Pay Commission recommendations are applicable from 1-1-1996 and so far no Officer was paid any benefit as per the said V Pay Commission recommendations. In fact, employees governed by the CDA pattern are placed in a better position as the Corporation could implement IV Pay Commission recommendations *in toto*, whereas the Officers governed by the IDA pay pattern are not only drawing the scales at a lesser rate than CDA pattern employees and wage revision applicable to IDA pattern applicable from 1-1-1992 could not be implemented due to adverse financial condition and the said benefit could be given after lapse of about 6½ years with effect from 1-7-1997, that too, without any arrears. Further, the Board of

Directors of the respondent-Corporation duly considered the issue pertaining to revision of wages to the Officers of the Corporation and came to a conclusion that the financial position of the Corporation does not permit implementation of V Pay Commission recommendations to Executives and only after revival plan of the respondent-Corporation is implemented totally and financial performance is improved and difference in IDA and CDA pay scales is brought out, it can be considered. However, all the Officers including the Director and CMD are not in CDA pattern scales and all of them are in IDA scales of pay. Even to these Directors, the revision due from 1-1-1992 was given along with other Officers on 1-7-1997 without any arrears. The Executives working in the respondent-Corporation are fully aware of the adverse financial position through which the Corporation is passing through; as such, had not raised any demand or claim to implement the said V Pay Commission recommendations. It is only the former Executives, who are no longer in service, are making this nature of baseless claims, having had settled their accounts fully and finally with the respondent-Corporation. The petitioner had voluntarily retired from service on 31-7-1997 and had also settled his account as per the terms and conditions of pay applicable to him as on 31-7-1997 and he is no longer an employee of the respondent-Corporation. He has no cause of action against the Corporation nor can he seek a declaration against the respondents to implement the V Pay Commission recommendations *in toto* with effect from 1-1-1997 with arrears etc.

It is the contention of the learned counsel for the petitioner that may be, the petitioner will not get any benefits effectively, since he took voluntary retirement with effect from 31-7-1997, but if his pay is revised notionally from 1-1-1997, he is entitled for certain retiral benefits and

the same cannot be denied to the petitioner on the ground that he was not in service as on 1-4-2005. Petitioner is also equally entitled along with others, who are in service as on 1-1-1997.

Learned counsel for the respondents reiterated the same stand as was taken in the counter and supported the impugned Orders.

It is nobody's case that the V Pay Commission recommendations are strictly applicable to CDA pattern employees of the Corporation, though the learned counsel for the petitioner placed reliance on the Judgment in C.M.P.No.10864 of 1989 in W.P.No.13844 of 1994 and batch, dated 3-5-1990. When the IV Pay Commission recommendations were not implemented in respect of CDA pattern of employees, they approached the Supreme Court and the Apex Court held that pay revision for these employees in respect of whom the recommendations were directed to implement, will take place as and when similar changes are effected for the Central Government employees. These employees will, however, continue to enjoy the option to switch over to the IDA pattern of the scale of pay etc., on a voluntary basis. According to the learned counsel for the petitioner, the application of the recommendations of the V Pay Commission is automatic in view of the above Judgment. I am not in agreement with the submissions made by the learned counsel for the petitioner.

However, now, as per the one-man commission recommendations, all the Officers of CDA pattern were converted into IDA pattern and their salary was fixed in parity with V Pay Commission recommendations and it was given effect to with effect from 1-1-1997 though the decision was taken on 1-4-2005. Petitioner, admittedly, retired from service voluntarily with effect from 31-7-1997. Though the decision taken on 1-4-2005 is to effect the pay scales with retrospective effect from 1-1-1997 without any arrears, since the

petitioner retired from service voluntarily on 31-7-1997, he is also entitled for all the benefits notionally from 1-1-1997. The contention of the respondents that since the petitioner was not in employment as on the date of taking decision on 1-4-2005, from which date the pay scales were given effect and he retired from service voluntarily; however, it was in vogue for effecting notionally, he is not entitled, cannot be countenanced. Petitioner is equally entitled along with all other employees, who are in service as on 1-1-1997 for all the notional benefits of the pay scales fixed by the respondents with effect from 1-1-1997. Thus, the respondents are directed to fix the pay of the petitioner notionally with effect from 1-1-1997 till the date of voluntary retirement i.e. 31-7-1997 and pay all the arrears of retiral benefits whatever is accrued to the account of the petitioner, within a period of eight weeks from the date of receipt of a copy of this order.

Accordingly, the Writ Petition is disposed of. No order as to costs.

11-4-2007

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